

"FILED IN OPEN COURT"

UNITED STATES DISTRICT COURT
DISTRICT OF MASSACHUSETTS

3-11-04

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Ca No. 04 CV10488 JLT

MARY ELLEN COSTA et al.)
Plaintiffs)
v.)
SERVICE EMPLOYEES)
INTERNATIONAL UNION)

)

SEIU LOCAL 9'S REQUEST TO PARTICIPATE IN EXPEDITED HEARING ON
PLAINTIFFS' MOTION FOR TEMPORARY RESTRAINING ORDER

NOW COMES Service Employees International Union, Local 9, AFL-CIO ("Local 9") and moves that it be allowed to participate in the expedited hearing on Plaintiffs' Motion for a Temporary Restraining Order, scheduled to take place at 2:00 p.m. on March 11, 2004.

As grounds for this Request, Local 9 states the following:

1. Local 9 was chartered by SEIU on October 1, 2003, and is a labor organization within the meaning of 29 U.S.C. § 152(5) and 29 U.S.C. § 402(i), and is a local union representing approximately 800 registered nurses and licensed practical nurses employed at the Boston Medical Center (BMC).
2. Local 9 is at the center of the instant dispute in which Plaintiffs are attempting to obtain a court order placing them into leadership positions of Local 9, removing the current officers of Local 9, requiring SEIU to accept their proposed Constitution and Bylaws for Local 9, and discontinuing the

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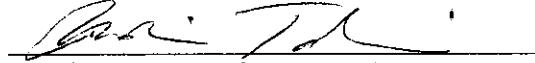
upcoming hearing on charges brought against Plaintiffs for actions while they were appointed officers of Local 9.

3. Plaintiffs have listed Local 9 as a Party (see Verified Complaint, ¶ 4) but Plaintiffs have failed to join Local 9 as a defendant in this action.
4. Plaintiffs purport to represent the members of Local 9. See e.g. Verified Complaint, Background Information (plaintiffs bring this action “on behalf of the members of Local 9”). Plaintiffs also assert that their actions are the actions of Local 9. See e.g. id., ¶ 60 (“Local 9 and Mr. Norton appeared at the hearings” ; ¶ 61 (“Local 9 left [the hearing] in protest”). Plaintiffs, however, are no longer officers of Local 9, and have no current authority to act on behalf of Local 9.
5. Plaintiffs have also incorrectly claimed that Local 9 has been placed in trusteeship by SEIU. No such trusteeship has been imposed, and accordingly, Local 9 remains a separate entity from SEIU.
6. For the above reasons, Local 9 has an interest relating to the transaction that is the subject of this action, the disposition of this action may impair or impede Local 9’s ability to protect its interest, and Local 9’s interest is not represented by the existing parties. Accordingly, Local 9 will timely file and serve a Motion to Intervene as of Right in this matter, pursuant to Federal Rule of Civil Procedure 24(a).
7. Under Rule 24(c), however, such motions shall be accompanied by a pleading setting forth the claim or defense for which intervention is sought. Having received notice of Plaintiffs’ Verified Complaint for the first time on the

evening before the scheduled expedited hearing, Local 9 has not yet an opportunity to prepare this pleading.

WHEREFORE, Local 9 respectfully requests that it be allowed to participate in the expedited hearing on Plaintiffs' Motion for a Temporary Restraining Order, scheduled to take place at 2:00 p.m. on March 11, 2004, so that it may ensure that its interest in this action is protected until such timely motion may be filed.

**SERVICE EMPLOYEES INTERNATIONAL
UNION, LOCAL 9,
By its attorneys,**


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Dated: March 11, 2004

CERTIFICATE OF SERVICE

I hereby certify that the foregoing Request for Participation in Hearing has been served upon Plaintiffs by service on their counsel, James F. Norton, Paven & Norton, 15 Foster Street, Quincy, MA 02169-5307, by first class mail, postage prepaid, this 11 day of March, 2004.


Indira Talwani